## THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE (FORMERLY SHELBY) DIVISION CRIMINAL CASE NO. 4:96-cr-00056-MR-1

UNITED STATES OF AMERICA	)	
vs.	)	<u> </u>
TIMOTHY LAMONT RUFF.	) )	

**THIS MATTER** is before the Court on the Defendant's "Freedom of Information/Privacy Act Request" [Doc. 115].

The Defendant requests disclosure of "all records wherein [his] name is utilized," including charging instruments, law enforcement reports, and his "Sentencing Packet, Plea, Sentencing Transcripts, [and] Judgement [sic]." [Doc. 115 at 2, 3].

The Defendant's request is denied. The Defendant entered into a plea agreement in this case pursuant to which he agreed to waive "all rights, whether asserted directly or by a representative, to request or to receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a." [Doc. 45]

at 4 ¶15]. This waiver thus precludes the pending motion. <u>See United</u>

<u>States v. Lucas</u>, 141 F. App'x 169, 170 (4<sup>th</sup> Cir. 2005) (per curiam).¹

IT IS, THEREFORE, ORDERED that the Defendant's "Freedom of Information/Privacy Act Request" [Doc. 115] is hereby **DENIED**.

IT IS SO ORDERED.

Signed: December 4, 2013

Martin Reidinger

United States District Judge

<sup>&</sup>lt;sup>1</sup> In any event, federal courts are expressly excluded from the definition of "agency" for purposes of FOIA and Privacy Act disclosure requirements. 5 U.S.C. § 551(1)(B); <u>Gayle v. Johnson</u>, 275 F. App'x 211, 212 n.1 (4<sup>th</sup> Cir. 2008) (per curiam); <u>Sheppard v.</u> Revell, No. 5:09-CT-3044-FL, 2010 WL 3672261, at \*4 (E.D.N.C. Sept. 20, 2010).